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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

HUGO CERNAS,

Defendant and Appellant.

F076663

(Super. Ct. No. CF03901251)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Edward Sarkisian, Jr., Judge.

Sharon G. Wrubel, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Michael P. Farrell, Assistant Attorney General, and Louis M. Vasquez, Deputy Attorney General, for Plaintiff and Respondent.

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* Before, Levy Acting P.J., Peña, J. and DeSantos, J.

On appeal, defendant Hugo Cernas contends his criminal conviction assessments imposed pursuant to Government Code section 70373 should be stricken because he was convicted before the statute's effective date, and his \$40 court security fees imposed pursuant to Penal Code section 1465.8¹ should be reduced to the \$20 required by the statute at the time of his convictions. The People concede and we agree.

BACKGROUND

Most of the facts are irrelevant to this appeal.

On October 5, 2001, defendant shot three people.

On March 18, 2005, he was convicted by jury trial of first degree murder (§ 187, subd. (a); count 1), attempted murder (§§ 187, subd. (a), 664; counts 2 & 3), and active participation in a criminal street gang (§ 186.22, subd. (a); count 4). The jury also found true various special allegations.

During the years that followed, defendant appealed twice and filed a writ of habeas corpus.

On November 13, 2017, the trial court resentenced defendant to a 20-year determinate term, followed by one consecutive indeterminate term of 50 years to life, followed by two consecutive indeterminate terms of life with the possibility of parole. The court also ordered him to pay a \$30 criminal conviction assessment on each count pursuant to Government Code section 70373 for a total of \$120, and a \$40 court security fee on each count pursuant to section 1465.8 for a total of \$160.

On November 29, 2017, defendant filed a notice of appeal.

DISCUSSION

Defendant was convicted in 2005. Government Code section 70373 took effect on January 1, 2009. (*People v. Castillo* (2010) 182 Cal.App.4th 1410, 1413; see Stats. 2008, ch. 311, § 6.5, p. 2488.) The criminal conviction assessment imposed under this statute

¹ All statutory references are to the Penal Code unless otherwise noted.

“does not apply to cases in which the defendant’s conviction, by plea or jury verdict, was rendered before the January 1, 2009 effective date of the statute.” (*People v. Davis* (2010) 185 Cal.App.4th 998, 1000.) Therefore, we will strike the assessments.

In 2005, section 1465.8 required imposition of a \$20 court security fee; thus, we will reduce the \$40 fees to \$20.

DISPOSITION

The \$30 criminal conviction assessments imposed pursuant to Government Code section 70373 are stricken. The \$40 court security fees imposed pursuant to Penal Code section 1465.8 are reduced to \$20 each. In all other respects, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and forward certified copies to the appropriate entities.